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Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo

Summary

The present report has been prepared in accordance with the provisions of Security Council resolution 1612 (2005). It is presented to the Council and its Working Group on Children and Armed Conflict as the third country report on the situation of children and armed conflict in the Democratic Republic of the Congo. The report covers the period from June 2007 to September 2008. It focuses on areas of the country in which armed groups are still active, notably the Ituri district, the provinces of North and South Kivu and North Katanga.

The report notes the decrease in the number of allegations of grave violations against children in the reporting period, while indicating that children are still the primary victims of the ongoing conflict in affected areas. It stresses the continued recruitment and use of children by armed forces and groups, particularly in connection with outbreaks of hostilities in some areas. The report also raises concerns about the re-recruitment of children, due in part to insufficient support from earlier disarmament, demobilization and reintegration processes. Widespread incidents of rape and other sexual violence against girls and boys remains of critical concern. The report identifies both State and non-State parties responsible for grave violations against children.

There has been some progress in the implementation of a national action plan on disarmament, demobilization and reintegration of children, as well as follow-up and the programmatic response to all six grave violations (see A/59/695-S/2005/72, para. 68). There has also been a commitment by the Government of the Democratic Republic of the Congo to address impunity for violations against children as demonstrated by a number of prosecutions of perpetrators by national military and civil judicial mechanisms.

The report contains a series of action-oriented recommendations with a view to strengthening cooperation and the child protection framework in the Democratic Republic of the Congo and to address critical cross-border concerns for children affected by armed conflict in the subregion.

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I. Introduction

1. The present report, submitted pursuant to Security Council resolution 1612 (2005), covers the major developments related to the situation of children and armed conflict in the Democratic Republic of the Congo since my last report, dated 28 June 2007 (S/2007/391). The information for this report has been gathered, verified and compiled by the country Task Force on Monitoring and Reporting in the framework of Security Council resolution 1612 (2005), and covers the period from June 2007 to September 2008. The report focuses on the areas of the country in which armed groups are still active, notably the Ituri district, the provinces of North and South Kivu and north Katanga province. Access to all areas in these provinces for monitoring purposes remains limited.

II. Political, military and social developments in the Democratic Republic of the Congo

2. On 9 November 2007, the Governments of the Democratic Republic of the Congo and Rwanda met in Nairobi and agreed on a common approach to end the threat posed to peace and stability in both countries and the Great Lakes region of Africa. Both Governments reaffirmed their commitment to cooperate fully and to implement a common approach in order to dismantle the former Rwandan Armed Forces (ex-FAR)/Interahamwe/Forces démocratiques de libération due Rwanda (FDLR).

3. On 24 May 2008, the former Vice-President of the Democratic Republic of the Congo and Senator Jean Pierre Bemba (leader of the Mouvement de libération du Congo (MLC) was arrested in Belgium by the Belgian authorities in accordance with an arrest warrant of the International Criminal Court and on 3 July 2008 was transferred to The Hague.

4. In June and July 2008, the National Assembly of the Democratic Republic of the Congo adopted the draft amnesty law for North and South Kivu, as agreed at the Conference on Peace, Security and Development in the Kivus, held in Goma from 6 to 23 January 2008. According to the draft law, amnesty will be granted for crimes of insurrection and acts of war committed in North and South Kivu after June 2003. It is important to note, however, that the draft law does not provide amnesty for genocide, war crimes or crimes against humanity. On 15 July 2008, the Senate adopted the draft law on the protection of children. However, the draft law still needs to pass the *Commission paritaire mixte* (Joint Consultative Commission) and the National Assembly before final adoption and promulgation. The draft law includes child-friendly procedures and notably provides for severe penalties for acts of sexual violence and physical abuse and for recruitment or use of children by armed forces and groups.

A. Oriental province

5. In Ituri, the security situation improved following the implementation of the third phase of the disarmament, demobilization and reintegration programme conducted between 4 August and 18 October 2007. The programme targeted the former armed elements not eligible for the national disarmament, demobilization

and reintegration programme who belonged to the remaining three militia groups still active in the Ituri district, namely the Front nationaliste et intégrationniste (FNI), led by Peter Karim, the Forces de résistance patriotique en Ituri (FRPI), led by Cobra Matata, and the Mouvement révolutionnaire Congolais (MRC), led by Mathieu Ngudjolo. FNI and FRPI splinter groups who refused to disarm continued to be a source of insecurity in the area. The FRPI still maintains an operational capacity, is reportedly recruiting new combatants and carried out attacks in Ituri district in late September 2008.

6. The Front populaire pour la justice au Congo (FPJC) under the command of Colonel Sharif Manda, which was formed out of factions of Ituri rebel groups that refused to disarm, is responsible for new outbreaks of fighting and insecurity in the region.

7. The number of displaced people in Ituri has been consistently decreasing since the beginning of 2007. However, since January 2008, 44,000 new internally displaced persons have been registered in the area, mainly in the territories of Djugu and Irumu, amounting to a total of 61,000 people. It is estimated that an additional 15,000 to 20,000 people have been displaced to non-accessible zones since September 2008.

8. In Haut Uele district, the Lord's Resistance Army (LRA) reportedly attacked up to 16 localities in Dungu territory between 17 September and 4 October 2008. Following these attacks, allegations of a large number of abductions, including of children, the burning of houses and schools and of other grave human rights violations were documented. According to the Office of the United Nations High Commissioner for Refugees, as many as 50,000 people have been forced to flee their homes as a result of the attacks.

B. The Kivus

9. In North Kivu, the security situation deteriorated significantly in late 2007. Clashes between the Forces armées de la République démocratique du Congo (FARDC) and the Congrès national pour la défense du peuple (CNDP), the politico-military group led by the dissident Laurent Nkunda, intensified in December 2007 and the beginning of January 2008. There are an estimated 875,000 internally displaced persons in North Kivu province, including 155,000 new internally displaced persons since January 2008. This represents an increase of about 45 per cent over the number of cases registered the preceding year. The recurrent armed clashes in the province have led to continuous waves of population displacement, which have affected approximately 150,000-180,000 persons since late August 2008. In South Kivu, the number of internally displaced persons has also increased since mid-2007 owing to the influx of internally displaced persons from North Kivu to a total of 310,000, including 60,000 new internally displaced persons since January 2008. As at September 2008, internally displaced persons from North Kivu were estimated at 65,000 persons.

10. The Conference on Peace, Security and Development in the Kivus took place in Goma from 6 to 23 January 2008 with active engagement and support from the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and other international partners. The Conference brought together more than 1,400 participants, including representatives of various Congolese armed

groups, FARDC, political parties, civil society and the international community. Two statements of commitment (*actes d'engagement*), for North and South Kivu, were adopted by all the 19 participating Congolese armed groups, including CNDP and Banyamulenge insurgents from South Kivu, represented by the Forces républicaines et fédéralistes (FRF). The signatories committed, among other things, to undergo disarmament, demobilization and reintegration and to facilitate the return of internally displaced persons. A Mixed Technical Commission on Peace and Security was established to monitor the implementation of the statements of commitment and the Nairobi communiqué of 9 November 2007 (see S/2007/679, annex).

11. On 3 April 2008, the Amani programme, which monitors the execution of the commitments contained in the statements of commitment for North and South Kivu was launched. The programme aims to bring all remaining armed elements into the *brassage* process, disarmament, demobilization and reintegration or disarmament, demobilization, reintegration and resettlement or repatriation. Provisions to secure the release of children have been included in the programme strategy.

12. The Conference on Peace, Security and Development in the Kivus provided an important opportunity for Child Protection actors to put on the agenda the issue of recruitment and use of children and the need to separate all children from armed groups as a matter of priority, as well as to address the issue of sexual violence.

13. Since 28 August 2008, the security situation has deteriorated, with heavy fighting between CNDP and FARDC in parts of North and South Kivu. Anecdotal evidence from children who escaped during these hostilities indicates that children are used by CNDP, including on the front lines.

C. Bas-Congo

14. In Bas-Congo the political and security situation has improved since the violent clashes between the Congolese National Police and Bundu Dia Kongo (BDK) in February and March 2008. On 28 February 2008, the Government of the Democratic Republic of the Congo launched an operation to restore State authority in sensitive areas in Bas-Congo and it is reported that at least 100 persons, principally members of BDK, were killed during this operation. Several cases of summary execution are under investigation, with a number of children apparently among the victims. Allegedly several children were included in the ranks of BDK militants and some of them face judicial charges because of their active participation in clashes with the authorities. The tendency on the part of the authorities to respond to political challenges with a disproportionate use of force remains a concern.

D. North Katanga

15. Movements of CNDP and Mayi-Mayi combatants from North Kivu into the Kamina *brassage* centre have complicated the security situation in Katanga. Delays in the disarmament, demobilization and reintegration process resulted in a violent clash in the *brassage* centre in February 2008, which left 37 people injured. Mayi-Mayi ex-combatants and armed groups from the Mitwaba, Pweto and Manono areas also continue to threaten security.

III. Grave violations against children: incidents and trends

16. Overall there has been a decrease in the number of allegations of grave violations against children with the improved security situation in many areas. However, in the Kivus, despite the signing of the statements of commitment, grave violations continue to be reported, with 63 per cent of the alleged violations attributed to armed elements of the remaining Mayi-Mayi groups, militias and foreign armed elements. Members of the Congolese security forces, notably the armed forces and the police, continued to perpetrate grave violations against children, and are allegedly responsible for 29 per cent (FARDC) and 8 per cent (police) of documented cases.

17. The outbreak of renewed fighting in North Kivu and parts of Oriental province, notably in Ituri district and Dungu territory, in September and October 2008 has led to a resurgence of incidents of violations against children. This is posing serious challenges for the implementation of the reform of the security sector and the comprehensive strategy for stability and security.

18. The events and violations committed after September 2008 will be documented and reported in the subsequent report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo.

A. Recruitment and use of children in armed forces and groups

19. In most cases, the recruitment of children is directly related to active conflict, with new outbreaks of hostilities typically resulting in higher trends in child recruitment. Therefore, the recruitment of children fluctuated throughout the reporting period with significant disparities across regions. For instance, child recruitment intensified at the end of 2007 and since September 2008 as fighting between FARDC and CNDP forces escalated, with some spillover effect into South Kivu. Reports of new recruitment have also resurfaced in the Ituri district, coinciding with heightened activities by splinter groups of the FNI and FRPI militia groups and FPJC.

20. It is estimated that at least 3,500 children remain in armed groups, a figure that is likely to have risen since 28 August 2008. More than 31,000 children have been released since 2004. On the basis of documented cases of children released during the reporting period, Mayi-Mayi groups account for the highest number of children in their ranks, followed by CNDP.

21. Although FARDC have reportedly stopped recruiting children, documented cases indicate that children are still present, especially in the non-integrated brigades as a result of the *mixage* process in early 2007. In some instances, children released from integrated FARDC brigades were found carrying FARDC identification cards. Difficulties in the systematic identification of children before armed groups were transferred to the *brassage* centres has resulted in a de facto integration of children into the FARDC.

22. Despite hopes for the implementation of the statements of commitment in the Kivus, it appears that recruitment of children is being used to take advantage of potential military and financial benefits from the disarmament, demobilization and

reintegration or *brassage* process. A perception exists that the more troops commanders bring into the process, the more benefits they will receive.

1. Ituri

23. In Ituri, following the surrender of FRPI, FNI and MRC militia leaders during the third phase of the disarmament, demobilization and reintegration process, no recruitment of minors was confirmed. Nonetheless, FNI and FRPI splinter groups that refused to disarm continued to create insecurity and might still represent a threat for recruitment of minors.

2. The Kivus

24. In contrast to the national trend, child recruitment increased in North Kivu, especially by the end of 2007 and since September 2008 as a result of clashes between FARDC and CNDP forces. In the Kivus alone, reports showed a 38 per cent increase in recruitment as compared with the preceding year. Documented cases indicate an increase in recruitment by Mayi-Mayi armed elements, CNDP and FDLR during this period. Although no cases of recruitment by the Ugandan armed group Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU) were reported, a small number of children in North Kivu who reportedly escaped from ADF/NALU confirmed that there were more children at the ADF/NALU base in Tchutchubu.

25. In North Kivu, after the signing of the statements of commitment, a large number of children were released or were able to escape seeking assistance from MONUC or FARDC. Some of these children reported that they had been recruited in January and February 2008.

26. The Union des patriotes résistants pour le développement (UPRDI), a splinter group of the Coalition des patriotes résistants congolais (PARECO) of South Kivu, is allegedly recruiting in the territory of Kalehe (Hauts Plateaux area). This recruitment campaign reportedly began after the Conference on Peace, Security and Development in the Kivus and appears to be targeting ex-combatants, including children, for whom there has been poor reintegration support from the earlier disarmament, demobilization and reintegration process. In the southern part of South Kivu province, allegations of child recruitment by FRF have also been reported since March 2008.

27. Allegations of recruitment by the Mudundo Forty forces among South Kivu Mayi-Mayi groups, signatories to the statements of commitment, were also reported.

3. North Katanga

28. No child recruitment was documented in North Katanga during the reporting period.

29. Serious concerns have been raised regarding the arrest of children formerly associated with armed groups. Children have been arrested during military operations, or intercepted when escaping, ending up in military holding cells. Such activities were mostly reported in the Kivu provinces. Interviewed children reported that they were subjected to cruel, degrading and inhumane treatment by FARDC while in detention.

30. On 30 July 2007, a 16-year-old boy was arrested and detained by the national police of Luvungi (South Kivu) for desertion. The boy reported that he had spontaneously left the ranks of Colonel Abdou Panda at the end of 2006 and had since returned to his village. The boy was released on 6 August 2007.

31. On 19 March 2008, 31 children illegally detained since early December 2007 were released after being arrested by FARDC in North Kivu and transferred to Kinshasa to be held by the Détection militaire des activités anti-patrie (DEMIAP), the military intelligence service. Among those 31 children accused of anti-patriotic acts, 16 were from Rwanda, one from Burundi and 14 from the Democratic Republic of the Congo. While some of the children confirmed their association with various armed groups in the Kivus, 20 of them had no apparent link with any armed group. Three other children were later released and reunited with their families with support from the International Committee of the Red Cross in Burundi and Rwanda.

B. Abductions

32. Despite a decrease in abductions reported by child protection partners, reports nevertheless indicate that children are still being abducted for recruitment, sexual exploitation and forced labour by armed groups. Several cases of temporary illegal detentions by the security forces or by military justice authorities were also recorded.

33. For instance, in late December 2007, three girls aged between 12 and 14 years were reportedly abducted by FDLR/Forces combattantes abacunguzi (FOCA) in Rutshuru territory (North Kivu) and forced to become spouses of FDLR commanders. The three girls managed to escape from the armed group and sought assistance from MONUC on 15 March 2008.

34. From May to June 2008, six cases of abduction of children were reported by child protection partners in South Kivu and in Oriental province. In five of those cases, the suspected perpetrators belonged to FARDC integrated and non-integrated brigades, while in one case the suspect was a Mayi-Mayi element.

35. Reports of a significant number of abducted children have been received following the LRA attacks on 16 villages in Haut Uele district in Oriental province at the end of September and early October 2008. However, verification of the exact number remains difficult owing to the poor security situation.

C. Killing and maiming of children

36. A decrease in incidents of killing and maiming of children was registered during the reporting period due primarily to a reduction in military operations. Nevertheless, children continue to be victims of attacks and of clashes between various armed groups and FARDC. Most of the cases documented in the reporting period relate to the intense period of fighting in North Kivu at the end of 2007 and the beginning of 2008. However, in June and July 2008, 10 cases of children allegedly being killed by security forces (the Congolese National Police) and armed groups (Mayi-Mayi and CNDP) were reported in North Kivu and in Oriental province.

37. On 10 November 2007, a baby girl (below the age of one) was reportedly killed and a 12-year-old girl wounded during a CNDP attack on Lushebere (Masisi territory, North Kivu).

38. On 7 December 2007, two children were allegedly killed in Munguli village (Rutshuru) together with three adults during an attack by PARECO elements that reportedly targeted families of Tutsi origin.

39. On 10 May 2008, a child formerly associated with PARECO was allegedly shot dead by a policeman during a demonstration led by children formerly associated with armed groups awaiting family reunification in Lubero. Three other children were reportedly injured during this incident.

D. Rape and grave sexual violence

40. Widespread sexual violence in the Democratic Republic of the Congo remains a grave concern. Whereas FARDC soldiers, officers of the Congolese National Police and elements of armed groups represented a majority of the alleged offenders in regions of active conflict, a significant number of reported incidents of sexual violence were also attributed to civilians in a climate of impunity and absence of rule of law.

41. Trends at the provincial level suggest that an extremely high rate of new cases persists in the context of the conflict in the Kivus, while the number of reported cases in post-conflict zones seems to have decreased.

42. In the period from June 2007 to the end of June 2008 in Ituri, out of 6,766 cases reported and assisted by partners of the United Nations Children's Fund (UNICEF), 2,893 were children (43 per cent): 2,516 girls and 377 boys. In cases of child rape, 42 per cent of the perpetrators were members of the security forces or armed groups and 58 per cent were civilians.

43. During the same period in North Kivu, out of 4,770 cases assisted by UNICEF partners, 1,821 were children (38 per cent): 1,794 girls and 27 boys. For cases of rape of children, 70 per cent of the perpetrators were members of the security forces or armed groups and 30 per cent of the perpetrators were civilians.

44. In South Kivu, out of 6,242 cases of sexual violence reported and assisted by UNICEF partners, 803 were children (13 per cent): 798 girls and 5 boys. For cases of child rape, 45 per cent of the perpetrators were members of the security forces or armed groups and 55 per cent were civilians.

E. Attacks on schools and hospitals

45. An increase in attacks against schools and hospitals was observed as compared with the preceding reporting period. Most of these attacks reportedly occurred during the September 2007 to January 2008 crisis in North Kivu and were often associated with reports of child recruitment in areas controlled by CNDP and Mayi-Mayi. As FARDC reinforced its positions, cases of looting of schools and health institutions were attributed to FARDC elements in Ituri and the Kivus.

46. On 6 September 2007, the alleged sabotage of a generator supplying electricity to the medical centres of Rutshuru, Kiwanja and Rubare was reported to child

protection partners. The sabotage was allegedly perpetrated by the FARDC non-integrated Bravo Brigade under the command of Colonel Makenga and apparently resulted in the death of 10 premature infants in the Rubare health centre and one in the Kiwanja health centre.

47. On 7 November 2007, a health centre in Mweso (Masisi territory, North Kivu) was reportedly looted during clashes between CNDP and Mayi-Mayi PARECO. All medicines and medical materials were stolen and the health centre had to interrupt a measles vaccination campaign.

48. On 21 April 2008, elements of the FARDC Fourteenth Integrated Brigade reportedly looted the primary school "Mana" of Chirunga (territory of Kabare, South Kivu).

49. During LRA attacks on villages in Haut Uele district, Oriental province in September 2008 at least three schools were attacked and destroyed.

F. Denial of humanitarian access

50. Humanitarian access to populations has been seriously affected during the reporting period, in particular in late 2007 and since mid-2008 as a result of renewed fighting and an increase in direct attacks on international humanitarian actors.

51. Between July and December 2007, access to populations in need was hampered by clashes and military operations. In North Kivu for example, on the Goma-Rutshuru axis, at least 100,000 people were left without humanitarian assistance because of lack of access. Following several months during which the level of insecurity and violence in the region significantly hindered the free movement of humanitarian actors, operations and access to affected population improved in February and March 2008.

52. In March and April 2008, four grave security incidents targeting international non-governmental organizations (NGOs) perpetrated by unidentified armed elements were reported in the Kalehe, Uvira and Fizi territories in South Kivu. As a result, international NGOs suspended humanitarian activities in those areas.

53. On 26 June 2008, the World Food Programme (WFP) issued a communiqué declaring that WFP assistance to internally displaced persons in Rutshuru territory was temporarily suspended for two days following a violent demonstration on 23 and 24 June against MONUC at Rutshuru and Kiwanja, which included the looting of a WFP truck. WFP stated that the distribution of aid relief to some 3,400 families in the Nyanzale area had been affected.

54. On 8 July 2008, an NGO humanitarian convoy of four vehicles was attacked and looted by unidentified armed men on the Burai-Bunagana axis (Rutshuru territory).

55. At the end of July 2008, as a result of several serious attacks against humanitarian convoys, three international humanitarian organizations working in the Masisi centre temporarily suspended their movements from and to Masisi. As a consequence, assistance to more than 186,000 people, among them 33,000 displaced persons in camps and thousands of others living in host families, was severely affected.

56. Since July 2008, an additional 10 to 15 violent attacks have been carried out against international humanitarian organizations in North Kivu, including by Mayi-Mayi in Burai and Mema on the Masisi axis, in Virundo (Lubero territory) and in Nyanzale by FARDC soldiers. Furthermore, along the Minova-Kalehe axis in South Kivu, near the border with North Kivu, a MONUC convoy evacuating humanitarian personnel from Minova in August 2008 was continuously attacked by Mayi-Mayi to the extent that the humanitarian personnel had to abandon the convoy. This followed another violent attack on the offices of an international NGO in Minova by Mayi-Mayi elements in March 2008.

57. Ituri district has also witnessed a serious decline in security for humanitarian actors with three attacks on international organizations since September 2008 in Fataki and Nizi, with one national staff member killed and numerous injuries inflicted with machetes.

IV. Dialogue and action plans

A. National action plan on disarmament, demobilization and reintegration of children

58. The national demobilization body, the Commission nationale de désarmament, démobilization et réinsertion (CONADER) was dissolved by presidential decree on 14 July 2007 and replaced by a new governmental body, the *Unité d'exécution du programme national de désarmement, démobilisation et réinsertion* (UEPNDDR). The Operational Framework for Children Associated with Armed Forces and Groups, adopted in May 2004, continues to be used as the framework for the implementation of the National Demobilization, Disarmament and Reintegration Programme (PNDDR). The national army integration process, called *brassage*, has more or less stalled since the implementation of the *mixage* (integration) process in North Kivu in 2007 between FARDC and CNDP troops. Troops from non-integrated brigades selected to be incorporated into the national army have yet to be processed or to release children still within their ranks.

59. On 3 June 2008, in eastern Democratic Republic of the Congo, the MONUC Child Protection Section and UNICEF met with the Mixed Commission on Peace and Security set up under the Amani programme. As a result, a process was established to provide assistance and facilitate the release of children from North and South Kivu armed groups. Three joint missions have taken place so far in North Kivu, leading to the release of a total of 66 children, including one girl, from Mayi-Mayi Kasidiens (12), Mayi-Mayi Mongol (44), PARECO (1) and CNDP (9). Two joint missions in South Kivu led to the release of fewer than 10 children.

60. Capitalizing on the statements of commitment, plans have been established with signatories to facilitate the release of children in their groups. Since January 2008, only 75 children in the Kivus have been officially handed over to child protection agencies. However, with the distribution of child protection sensitization cards among minors by MONUC mobile operating bases, over 500 children sought protection from MONUC military units after having escaped from armed forces and groups.

61. Additional funding was allocated to support the reintegration of an estimated 9,000 children through the Multi-Country Demobilization and Reintegration Program, complementing the ongoing efforts by child protection partners. Funding should support the reintegration of pending cases and facilitate the reintegration of children who are expected to be released soon.

62. On 16 June 2008, the Executive Committee of UEPNDDR, in collaboration with UNICEF and MONUC, launched a nationwide advocacy campaign to call for the release of all children still associated with armed forces and groups. The campaign, called "Zero children associated with armed forces and groups", targets leaders of armed groups, civil society, political actors and affected populations.

B. Dialogue with parties to the conflict and other action plans

1. General coordination on protection issues (protection cluster)

63. The Child Protection Working Group was launched in Goma on 5 October 2007 and in Bukavu and Bunia in early 2008. Under the joint leadership of UNICEF and the MONUC Child Protection Section, working groups have been established in order to bring together in one forum child protection actors and partners working in areas affected by conflict in order to facilitate the development and coordination of child protection strategies and responses, including the development of contingency plans and advocacy with authorities.

2. Sexual violence

64. An accelerated common action plan to combat sexual and gender-based violence, aimed at bridging gaps and ensuring full coordination of United Nations interventions, is being developed. MONUC continues to focus its interventions on FARDC and Congolese National Police personnel. Incidents of sexual violence are monitored and reported within the framework of MONUC's monthly report on serious human rights violations by members of the armed forces, which is transmitted to the Ministry of Defence. Cases of ill-discipline and harassment of the population are also collated and sent on a monthly basis to the Chief of Defence Staff. A continuous reporting mechanism has also been established within MONUC's military component to report on the involvement of recently trained battalions in any act of sexual violence.

65. In May 2008, a senior adviser and coordinator on sexual violence was assigned to the Office of the Deputy Special Representative of the Secretary-General in MONUC in order to support and strengthen the efforts of the United Nations to combat sexual and gender-based violence in the Democratic Republic of the Congo. The primary focus of the activity of the United Nations in this area is to strengthen the capacity of the Government to play the leading role in preventing sexual violence based on a plan that includes a concerted campaign to raise awareness and provide civic education; targeted advocacy; better referral services and greater access to multisectoral assistance for victims, with improved reporting and data management; training and capacity-building at the national and community levels for enhanced protection and response to sexual violence; and rigorous and timely investigation and prosecution of crimes of sexual violence in order to address impunity.

66. In North Kivu, a sexual violence working group led jointly by the United Nations Population Fund and UNICEF was established to coordinate emergency prevention and response efforts in camps for internally displaced persons and other highly insecure areas.

67. In January 2008, the Government announced the establishment of a thematic group on sexual violence to add further clarity and direction in terms of collaboration with the international community.

68. Data suggest that approximately 69 per cent of reported victims of sexual violence countrywide receive some medical assistance, while some 73 per cent receive psychosocial support, 14 per cent receive assistance with reinsertion in their communities, while only 7 per cent receive support in seeking legal redress. However, such data must be further analysed, as obtaining reliable statistics on sexual violence is fraught with challenges.

V. Follow-up and programmatic response to violations

69. In December 2007, the country Task Force on Monitoring and Reporting issued a statement indicating that, since June 2007, a significant number of children had been recruited in the schools in the Masisi and Rutshuru territories in North Kivu, calling on CNDP to immediately and unconditionally release children still in their ranks.

70. In compliance with the 10 December 2007 directive from the Minister for Defence, the first FARDC committee charged with examining and following up on cases of human rights violations perpetrated by members of the armed forces was created in Kinshasa, followed by the establishment of a committee in the Ituri district. It is expected that an additional committee will soon be established in Kasai Occidental province. The Ministry of Defence has also established a military operational court in North Kivu to prosecute serious violations by FARDC troops.

A. Capacity-building of security and judicial authorities

71. From September to November 2007, the country Task Force on Monitoring and Reporting conducted five workshops on monitoring and reporting of grave child rights violations in Bunia, Goma, Bukavu, Uvira and Beni, for 150 local child protection agents directly involved in the reporting and monitoring mechanism. Members of the Children's Parliament also participated in the training.

72. In December 2007, funding from Belgium was confirmed in support of a MONUC project aimed at supporting the fight against impunity. The project began in June 2008 and provides technical support and advice to the Military Prosecutor on judicial investigations and prosecution of grave violations against children.

73. In collaboration with the Ministry of Defence, the United States Defense Institute of International Legal Studies and the Canadian Forces, MONUC delivered training on investigation and prosecution of sexual crimes for 200 military magistrates and military judicial police inspectors in Kinshasa, Kisangani and Matadi.

B. Addressing impunity

74. Some significant developments were seen in the fight against impunity as a result of increased collaboration between the Government of the Democratic Republic of the Congo and the International Criminal Court and greater willingness on the part of the military justice sector to take action against perpetrators, sending a stronger message regarding impunity. However, a more systematic approach in bringing to justice suspected perpetrators of serious human rights violations remains a great challenge for the Government of the Democratic Republic of the Congo. The independence of judicial institutions from political institutions remains a concern, as political power continues to influence judicial actors.

75. Under the statements of commitment, a new amnesty law is being formalized for "acts of war and insurrectionary movement". The law is not expected to exempt war crimes or crimes against humanity, although the principle of amnesty is already being used as an argument by some to avoid taking action on a number of pending cases. For instance, FARDC Major Abdou Matata Panda, former commander of the 121st Mayi-Mayi Brigade and now based in Lubarika (Ruzizi plain) may benefit from the amnesty law.

76. In general, there has been an improvement in the cooperation and willingness of military authorities to address issues related to children associated with armed forces and groups. For example, on 29 October 2007, following intense advocacy by MONUC, the commander of the FARDC 10th Military Region in South Kivu issued an order to all his units recalling that military jurisdictions lacked competence in respect of minors.

77. Colonel Engangela, also known as Colonel 106 and active in South Kivu, was arrested on 23 August 2007 and charged with insurrection; further evidence was collected related to abductions, illegal detention, sexual violence against a child and forced recruitment of children under the age of 15.

78. On 28 July 2007, the Kisangani military court conducting on-site hearings in Bunia delivered its verdict on the Bavi massacre, in which six children, including two six-year-old girls, were killed by FARDC elements. The Court confirmed the judgement of the FARDC military tribunal of Ituri, by which Captain Mulesa (known as Bozize), a commander in the intervention unit of a FARDC integrated brigade, was sentenced to life imprisonment for rape, murder and looting of civilian houses and the Bavi hospital. Another captain was sentenced to 10 years' imprisonment for war crimes, with the remaining seven defendants receiving 15-year sentences for murder.

79. On 7 April 2008, Major Bwasolo Misaba (also known as Mwami Alexandre) an officer of FARDC and a former commander of the 119 Mayi-Mayi Brigade based in Shabunda, was sentenced by the Bukavu military court to five years' imprisonment for recruitment of three minors aged between 10 and 14 years and for illegal use of military ranks. This is the second case of an officer of FARDC being sentenced for recruitment of minors in the Democratic Republic of the Congo, with both cases being related to violations in South Kivu.

80. The trial of Kyungu Mutanga, also known as "Gédéon", began on 7 August 2007 and is still ongoing. Gédéon is charged with insurrection, crimes against humanity, war crimes (including the recruitment of at least 300 children) and

terrorism, allegedly committed between October 2003 and May 2006 in the territory of Mitwaba (Katanga province).

81. Some progress has also been registered in relation to impunity for sexual violence, primarily in South Kivu. On 11 February 2008, a police officer suspected of having raped an 11-year-old girl was arrested. Similarly, several cases brought against FARDC elements in South Kivu show the willingness and ability of the Military Prosecutor to bring charges of sexual violence against members of the security forces.

82. In North Katanga, the military tribunal in Kalemie convicted a sergeant in the Congolese National Police for the rape of a nine-year-old girl on 22 August 2008, sentencing him to 15 years' imprisonment and to provide restitution to the victim in the amount of $2,000.

83. The arrest and transfer to the International Criminal Court in early 2008 of Germain Katanga[1] and Mathieu Ngudjolo[2] is significant and may encourage the national authorities of the Democratic Republic of the Congo to pursue other senior civilian and military officials suspected of war crimes and crimes against humanity.

84. On 28 April 2008, the Pre-Trial Chamber I of the International Criminal Court unsealed the warrant of arrest against Bosco Ntaganda, the former Deputy Chief of General Staff for Military Operations of the Forces patriotiques pour la libération du Congo (FPLC), the armed branch of the Union des patriotes congolais (UPC). He is suspected of having committed war crimes by recruiting and using children under the age of 15 in Ituri from July 2002 to December 2003. Bosco Ntaganda is currently the Chief of Staff of CNDP.

85. On 13 June 2008, the International Criminal Court suspended proceedings against the Congolese leader of the Hema militia UPC, Thomas Lubanga Dyilo, charged with recruitment and use of children. The judges stated that a fair trial could not be guaranteed after finding that prosecutors had failed to disclose to Mr. Lubanga's defence information contained in evidence. Mr. Lubanga remains in the custody of the International Criminal Court pending final decisions regarding the lifting of the stay of proceedings.

C. Disarmament, demobilization and reintegration of children

86. Overall, there has been a reduction in the number of children associated with armed forces and groups in the Democratic Republic of the Congo. During the

[1] Germain Katanga, an alleged commander of FRPI who had previously been held at the Penitentiary and Re-education Center of Kinshasa since March 2005, was surrendered by the Congolese authorities and transferred to the International Criminal Court in The Hague on 17 October 2007. Germain Katanga is accused of being responsible for six counts of war crimes and three counts of crimes against humanity, including the use of children under the age of 15 years to participate actively in hostilities.

[2] Mathieu Ngudjolo Chui, the former head of FNI and most recently an FARDC colonel, was arrested by the Congolese authorities and transferred to the International Criminal Court in The Hague on 6 February 2008. Mathieu Ngudjolo is charged with six counts of war crimes and three counts of crimes against humanity, allegedly committed in the Democratic Republic of the Congo since July 2002. The charges include the use of children under the age of 15 years to participate actively in hostilities.

reporting period the number of children released from armed forces and groups decreased by 45 per cent compared with the previous period.

87. In the absence of a functioning national disarmament, demobilization and reintegration programme, children continue to withdraw from armed groups, sometimes on their own and sometimes as a result of successful advocacy and interventions by child protection partners. However, the current context of renewed fighting and serious challenges in the peace process since late August 2008 is hampering access to armed groups for such advocacy.

88. Challenges encountered during the *mixage* and *brassage* processes are being addressed by child protection networks in the framework of the Amani programme. One such concern is the risk of minors, typically between the ages of 15 and 17 years, being integrated into the national army.

89. During the reporting period, 75 children were repatriated through the disarmament, demobilization, repatriation, resettlement or reintegration programme to their countries of origin. Among these children were 44 who had been associated with FDLR, 18 with CNDP, 7 with FARDC, 4 with Mayi-Mayi groups and 2 with LRA.

90. Only a small number of girls have been released through the *mixage* and *brassage* processes, often because of lack of cooperation of commanders. Some commanders do not recognize their obligations to release female children, and the girls themselves are often not aware of their rights or the options available to them. They also fear stigmatization and ostracism upon return to their community. As a result, many girls have left the armed forces and groups by their own means, having escaped or having been abandoned by their units during the movement of troops. If they do not go through the official disarmament, demobilization and reintegration programme, it is more difficult to identify these girls once they are back in their communities in order for them to benefit from reintegration support programmes.

91. Insecurity in many areas and concerns of re-recruitment continued to hamper child protection partners in family tracing, reunification and reintegration of children separated from armed forces and groups, especially in North Kivu. Temporary structures are overstretched and children often remain in transitory care beyond the 3 months foreseen by the official programme. This exacerbates the feelings of frustration of children, who have demonstrated their discontent on several occasions. On 12 November 2007, for example, a group of children released from the Jackson Mayi-Mayi blocked the road to Beni-Mavivi airport in protest against the non-payment of their demobilization benefits. A MONUC child protection staff member was assaulted by a group of children who recognized him as being responsible for their demobilization. In response, UNICEF has increased the type and number of activities available to children in their transit centres since late 2007 to provide additional psychosocial support and promote skills development. Over 300 children recently separated from armed groups are currently in transitory care in Goma, Bukavu, Masisi and Rutshuru. In some instances, children repatriated to Rwanda returned to the Democratic Republic of the Congo, claiming to the child protection partners that they had faced ostracism and threats upon their return to their communities.

92. Thanks to a contribution to the Pooled Fund for the Democratic Republic of the Congo and funds from the Central Emergency Revolving Fund, 14,168 children

have been supported for reintegration activities, among which 10,086 were formerly associated with armed forces and groups, 8,000 of which are from eastern Democratic Republic of the Congo.

1. Ituri

93. During the third phase of the disarmament, demobilization and reintegration programme in Ituri, which ended on 15 October 2007, 1,847 armed elements were demobilized and 99 children were released from three armed groups, namely FNI, FRPI and MRC. Child protection partners believe that the number of children used by those groups was in fact much higher, but many children escaped from the groups before the surrender of their respective commanders, while others were left behind while the disarmament, demobilization and reintegration operations took place. Children who were interviewed reported being instructed to return to their families by themselves by commanders who hoped to avoid accountability for child recruitment. Child protection partners working in areas previously occupied by these groups have identified hundreds of such children in their communities in an effort to provide them with reintegration support. Since the end of the third phase of disarmament, demobilization and reintegration, very few children have withdrawn from the remaining armed groups in Ituri.

94. In April 2008, seven children, aged between 15 and 17 years, were brought to child protection structures in Bunia for demobilization. All seven children were reportedly associated with FNI. They were trying to participate in *brassage* by claiming that they were over 18 years old. Five of the boys were identified at the FARDC Structure for Military Integration (SMI) centre after their families filed a complaint against FARDC for conscription of their sons into the SMI projects. The other two were arrested together with adults by FARDC after clashes with remaining FNI dissident factions.

2. The Kivus

95. An enhanced strategy to counter the recruitment and use of children by armed forces and groups was initiated by the North Kivu Child Protection Working Group (under the auspices of the protection cluster mechanism), which includes direct discussions with key militia groups, an intense communication strategy via local radio stations with pre-recorded messages and interviews and dialogue with religious leaders of all faiths to enlist them in raising awareness among their followers.

96. At the end of 2007, Colonel Jackson, commander of the Baleine Brigade, announced that he was ready to join the *brassage* process and intended to hand over 132 children. The separation was carried out at the Nyaleke *brassage* centre located in the Grand Nord area, in Beni territory. Among the Jackson Mayi-Mayi children, six girls were identified, although only two were present at the time of the separation. One week later, 50 more children were separated from the same group. However, with the emergence of new Mayi-Mayi groups in the region opposed to the *brassage* process, many of the children released at the Nyaleke centre have reportedly been re-recruited by these groups.

97. In order to prevent child recruitment in camps for internally displaced persons and to reduce the overall vulnerability of children, UNICEF, in cooperation with child protection partners, established 24 "child friendly spaces" and 32 registration

points for unaccompanied or separated children in displacement sites in the Petit Nord area of North Kivu. Since mid January 2008, more than 30,000 children have benefited from these activities, although insecurity has limited operations significantly.

98. In South Kivu, the number of children separated from armed groups decreased by approximately 9 per cent compared with the number of cases registered in the preceding year. Many of the children who were separated from Mayi-Mayi factions (24 per cent of whom originated from North Kivu) represent cases of re-recruitment. Very few children were separated during the first quarter of 2008.

3. North Katanga

99. In North Katanga, following the end of the main disarmament, demobilization and reintegration operations in 2005 and 2006, the number of children separated from armed groups was significantly reduced. In March 2008, pursuant to the signing of the statements of commitment, approximately 40 children were separated from North and South Kivu Mayi-Mayi factions and from CNDP troops. No separation of children was reported from North Katanga Mayi-Mayi factions during the reporting period. Child protection partners continue to have difficulties in accessing and supporting children owing to the fact that they remain with their families and are sporadically used by the armed groups on a voluntary community recruitment basis. Child protection partners have finally been able to access the Kamina *brassage* centre to identify and obtain the release of a group of 76 children formerly associated with armed groups in North Kivu.

4. Bas-Congo

100. A total of 183 children from North Kivu, South Kivu and Ituri were identified at the Kitona *brassage* centre in Bas-Congo during the reporting period. Of these, 55 have been reunified with their families, while 128 children, including two girls, are awaiting reunification to North Kivu, South Kivu and Ituri contingent on improved security.

VI. Recommendations

101. I urge all relevant parties to continue to implement the recommendations of my previous reports on the situation of children and armed conflict in the Democratic Republic of the Congo (S/2006/389 and S/2007/391) and the subsequent conclusions and recommendations of the Working Group on Children and Armed Conflict (S/2006/724 and S/AC.51/2007/17). I request my Special Representative for the Democratic Republic of the Congo, in consultation with the United Nations country team, to continue to ensure effective follow-up to these recommendations and the resolutions of the Security Council on children and armed conflict, including further strengthening of the monitoring and reporting mechanism for grave violations against children, and ensuring a coordinated response to this issue.

102. I welcome the periodic consultations between the Government of the Democratic Republic of the Congo and the chairmen of the Democratic Republic of the Congo country Task Force on Monitoring and Reporting to discuss the grave violations identified under the mechanism. I encourage the strengthening of this

important consultative framework, which should ensure the development of effective prevention and response activities to the violations.

103. Recognizing the decrease in recruitment and use of children by the parties to the conflict as compared with the period covered by my last report, I remain deeply concerned about the thousands of children remaining with armed forces and groups in the Democratic Republic of the Congo, and I urge the parties to cease any new recruitment of children and to release unconditionally all those currently associated with their forces. Building on ongoing dialogue with the United Nations in this regard, I urge FARDC to follow through on the commitments it has made by preparing, in the framework of Security Council resolution 1612 (2005), an action plan to identify, release and ensure effective reintegration of all children associated with their forces, to prevent further recruitment and to address all other grave violations against children.

104. Furthermore, I reiterate the call of the Security Council to parties cited for violations, such as CNDP, FDLR and Mayi-Mayi armed elements, to respect their commitments for the protection of children, to end recruitment and use of children and to release all children still within their ranks, in accordance with the statements of commitment of February 2008. Building on the ongoing dialogue with the United Nations in this regard, I urge these parties, in the framework of Security Council resolution 1612 (2005), to prepare without further delay action plans on the recruitment and use of children and to address all other grave violations against children.

105. I am also deeply concerned about the re-recruitment of children, due in part to insufficient reintegration support from earlier disarmament, demobilization and reintegration processes. In this regard, I urge all stakeholders, including relevant Government institutions, United Nations entities, NGOs and donors, to ensure that reintegration strategies are in line with the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups; that they are multisectoral and sustainable in the long term through provision of early, flexible and multi-year funding; that emphasis is placed on community-based approaches; that greater emphasis is placed on psychosocial dimensions of reintegration; that there are priority attention and resources for girls; and that there is an increased focus on livelihood support and youth-oriented employment strategies.

106. Recognizing the ongoing efforts to prevent and respond to sexual violence, I remain deeply concerned about the prevalence of such violations against girls and boys. I urge the Government, as a matter of priority, to adopt and implement a comprehensive national strategy to prevent, respond to and combat sexual violence. The United Nations and donors should continue to support the Government in the implementation of such a strategy, which could include such key areas as combating impunity, protection and prevention, security sector reform and multisectoral assistance for victims.

107. I welcome the commitment and efforts of the Government to fight impunity through the investigation and prosecution of crimes against children by the civilian and military justice sector. I urge a more systematic approach to such efforts, with emphasis on the independence of judicial institutions, and I welcome the integration of child-friendly procedures in the draft law on the protection of children. I also urge donors and the relevant United Nations actors to assist in ensuring enhanced

capacity and technical expertise of judiciary officials and other relevant authorities in dealing with cases involving children.

108. I encourage the Government and donors to continue to include child protection in security sector reform efforts, including systematic training for military, police and other security personnel and the development of specialized capacity within their forces to deal with children as witnesses and victims of crime or as perpetrators, in line with the United Nations common approach to justice for children and other relevant standards.

109. I am deeply concerned about the allegations of recent LRA attacks and abductions in the Democratic Republic of the Congo. Within the context of a regional strategy to deal with LRA, I recommend that United Nations agencies and operations in the Democratic Republic of the Congo, Uganda and the Sudan develop a joint strategy to monitor and report on recruitment and other grave child rights violations by LRA.

110. I also encourage enhanced cooperation between the Government of the Democratic Republic of the Congo and other countries in the region, such as Rwanda, to ensure the successful repatriation and reintegration of children formerly associated with groups in the Democratic Republic of the Congo to their countries of origin. I urge all concerned to address the flow of children from neighbouring countries to armed groups in the Democratic Republic of the Congo. The international community should support these efforts, and I have requested my Special Representative for Children and Armed Conflict to facilitate dialogue on such cross-border concerns.

111. I call upon all parties to the conflict to continue to ensure that the protection of children is prioritized during the various phases of the Goma and Nairobi processes and that children's concerns are explicitly reflected in subsequent peace agreements. I also encourage the Government of the Democratic Republic of the Congo, with the support of the United Nations, to develop and establish appropriate institutional arrangements to ensure that children are prioritized in the subsequent recovery and development phase.

112. I have requested my Special Representative for Children and Armed Conflict to undertake a follow-up visit to the Democratic Republic of the Congo to assess the situation of children and progress in the implementation of the Security Council resolutions on children and armed conflict and the relevant recommendations of the Security Council Working Group on Children and Armed Conflict.